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Honorable Victor Marrero  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Suite 660  
New York, NY 10007

BY FAX: 212-805-6382

Re: Jesse Rosen v. City of New York, et. al.  
07-CV-6018 (VM)

Your Honor:

With reference to the above-captioned action, I write in response to the letter of Corporation Counsel of the City of New York dated July 19, 2007, wherein defense counsel indicates my prior request of the Court regarding the issues surrounding the "50-h" defense are now moot. I have been away from my office and only had an opportunity to read defense counsel's letter upon my return this morning.

Respectfully, the issues are not moot absent a Court order resolving same or a written stipulation from defense counsel filed with the Court. While plaintiff, Jesse Rosen, anticipates being released from prison on August 16, 2007, at which time a 50-h hearing can be held and an answer issued thereafter, there is, of course, no guarantee that Mr. Rosen will be released at that time. In the event of any delay in Mr. Rosen's release, or a delay in the holding of the 50-h hearing, the issue of the "50-h" defense will remain a jurisdictional problem for plaintiff's case.

I note that while defense counsel indicates to Your Honor a willingness to hold the hearing upon plaintiff's release from jail, defense counsel never indicates in his letter to Your Honor that he is going to waive the defense of the failure to hold a 50-h hearing. It is precisely because the issue remains outstanding, without Court order or an unconditional indication in writing from defense counsel that the issue will not be raised in defendants' answer, that the conference is requested before Your Honor, again with apologies for burdening the court with procedural matters.

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Hon. Victor Marrero

Re: 07-CV-6018 (VM) / Rosen v. City of New York, et. al.

In light of the above, I again respectfully request that a conference be held before Your Honor to resolve this issue so that we may proceed to the substantive issues of this action without further burdening the Court.

Thank you for your consideration herein.


Sincerely yours,

PAZER & EPSTEIN, P.C.

  
BY: MICHAEL JAFFE

MJ:dr

Cc: Corporation Counsel (Jordan Smith, Esq.) – by fax: 212-788-9776

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| The parties are directed to address the matter set forth above to Magistrate Judge <u>Theodore Katz</u> to whom this dispute has been referred for resolution, as well as for supervision of remaining pretrial proceedings, establishing case management schedules as necessary, and settlement. A formal motion to address this matter is not necessary. Accordingly, <b>SO ORDERED.</b> the Clerk of Court is directed to remove plaintiff's motion (Docket No. 3) from the docket of this case. |   |
| Date<br><u>7-24-07</u>  | <br>VICTOR MARRERO, U.S.D.J. |